

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of I.N.K., N.R.K. and J.A.K., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NATHANIEL REGAN KINNEY,

Respondent-Appellant,

and

DENA KINNEY,

Respondent.

UNPUBLISHED

April 10, 2003

No. 244102

Lapeer Circuit Court

Family Division

LC No. 01-008832-NA

Before: Jansen, P.J. and Kelly and Fort Hood, JJ.

MEMORANDUM.

Respondent Nathaniel Kinney appeals as of right from a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and (h). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination had been proved by clear and convincing evidence. *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). At the time the children entered foster care, respondent had been incarcerated for nearly two years. At the time of the termination hearing, he was still incarcerated and would not complete his sentence for another twenty-five months. Although respondent had a parole hearing within the next year, he had already been denied parole once and there was no evidence that his early release was assured or even likely. Upon his release from prison, respondent would have to establish a relationship with the children and obtain employment and suitable housing before reunification could be considered.

Further, the trial court did not clearly err in its determination that the evidence, on the whole record, did not clearly show that termination was clearly not in the children's best interests. *In re Trejo Minors*, 462 Mich 341, 354, 356-357; 612 NW2d 407 (2000); MCL

712A.19b(5). Therefore, the trial court did not clearly err in terminating respondent's parental rights to the children. *Trejo, supra* at 356-357.

Affirmed.

/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood